

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEVIN FERNANDEZ,

Plaintiff,

vs.

R. BAKER et al.,

Defendants.

Case No.: 3:13-cv-00276-RCJ-VPC

ORDER

Plaintiff, a prisoner in the custody of the Nevada Department of Corrections has alleged various civil rights violations by several Defendants. The Court permitted several claims to proceed upon screening. Four motions are presently before the Court.

First, Plaintiff asks the Court to reverse the magistrate judge's order of January 13, 2014 pursuant to Rule 72(a). The magistrate judge granted in part Plaintiff's motion to increase his free copy limit. The magistrate judge noted that NDOC had already permitted Plaintiff to run up \$900 worth of copies without payment. The magistrate judge ordered \$10 additional free copies, as opposed to the \$50 requested by Plaintiff. Plaintiff argues that the magistrate judge's ruling was clearly erroneous or contrary to law. It was not. Indeed, it would not have been erroneous to deny the motion altogether. Plaintiff identifies no statute requiring he be provided any

1 particular number of free copies. In his motion, he notes that copies are \$0.20 apiece, indicating
2 that he has already obtained 4500 copies for free.

3 Second, Plaintiff requests ninety additional days to serve Defendants Lightsey and Weiss,
4 because the U.S. Marshal was previously unable to serve them, as their addresses have changed.
5 In response, Defendants have accepted service on behalf of Weiss but not on behalf of Lightsey,
6 who is no longer employed by NDOC. The Court grants the motion in part, as to Lightsey.

7 Third, Plaintiff asks the Court to enter default judgment against Defendant Clarkson. The
8 Court denies the motion, as the docket indicates no entry of default as to Clarkson. *See Eitel v.*
9 *McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986) (citing Fed. R. Civ. P. 55; 6 *Moore's Federal*
10 *Practice* ¶ 55.02[3], at 55-8). Plaintiff must ask the Clerk to enter default before the Court will
11 consider a default judgment. Also, there is no indication the present motion has been served.

12 Fourth, Plaintiff asks the Court to order Defendants to file a notice of substitution of
13 counsel. Defendants have complied voluntarily.

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

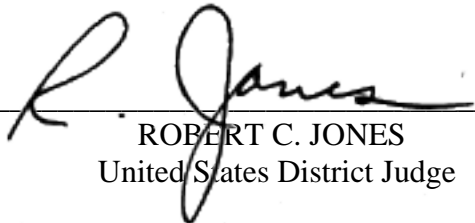
CONCLUSION

IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 29), the Motion for Default Judgment (ECF No. 58), and the Motion for Court to Order Defense Counsel to File Notice of Substitution of Counsel (ECF No. 76) are DENIED.

IT IS FURTHER ORDERED that the Motion for Enlargement of Time to Serve the Summons and Complaint (ECF No. 54) is GRANTED IN PART. Plaintiff may have ninety (90) days from the date this Order is entered into the electronic docket to serve Defendant Lightsey.

IT IS SO ORDERED.

Dated this 9th day of June, 2014.



ROBERT C. JONES
United States District Judge